

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

September 29, 1992
AO-92-27

Willard Krasnow
Raytheon Company
Office of the General Counsel
141 Spring Street
Lexington, MA 02173

Re: Initiative Petition Expenditures

Dear Mr. Krasnow:

This letter is in response to your May 19, 1992, request for an advisory opinion as to whether Raytheon must report expenditures made in reference to an initiative petition. I apologize for the delay in my response.

You stated that Raytheon participated in the Attorney General's certification process of initiative petition 91-23, Economic Conversion of Defense Plants. The company's involvement consisted of having its in-house legal staff present legal memoranda to the Attorney General arguing against certification of the petition. You state that since the certification was defeated, and the ballot question did not actually reach the voters, Raytheon should be free from the reporting requirements of M.G.L. c.55.

The section applicable to corporate expenditures on such an issue, M.G.L. c.55, s.22, states in pertinent part:

The treasurer of any corporation, which has given, paid, expended or contributed, or promised to give, pay, expend, or contribute, any money or any valuable thing in order to influence or affect the vote on any question submitted to the voters shall file reports with the director M.G.L. c.55, s.22 (emphasis added).

The resources of the Raytheon legal department, and the staff-time necessary to produce a legal memorandum, and a subsequent revised memorandum, certainly qualify as "any valuable thing." M.G.L. c.55, s.22. As such, Raytheon has clearly made an expenditure, which satisfies the initial portion of section 22.

In M.G.L. c.55, s.22, the phrase "submitted to the voters" does not, as you suggest, refer to the point in time when a petition is certified. This would, in part, defeat the purpose of the reporting requirements because they would only apply

after the certification of the question had been resolved; this "after the fact" public disclosure would significantly reduce the effectiveness of the disclosure requirements. It would keep silent an organization's efforts to defeat certification of one or an entire series of petitions, without regard to the elaborateness of such efforts. In fact, the pertinent phrase does not refer to a point in time, rather, the full phrase, "any question submitted to the voters," refers to a class of issues which are decided by the voters within the framework of a ballot question (in contrast to an issue decided by a vote at a town meeting). This is based upon a plain reading of section 22. Although Raytheon defeated the certification of the ballot question, this does not result in an exemption from the reporting requirements. This Office has required reporting prior to certification to serve the interests of adequate public disclosure.

Additionally, you stated in your letter that Raytheon's expenditures were limited to legal memoranda directed to the Attorney General, not to the voters, thus the expenditures were not made "to influence or affect the vote" See M.G.L. c.55, s.22. "Influence" or "affect" upon a vote is not limited to efforts directed toward the public, such as advertisements and other public promotion or opposition to a particular question once it is on the ballot. Rather, it is the opinion of this Office that actions which prevent the occurrence of a vote, even in the early stages of an initiative petition, have a significant affect upon the vote. As such, public disclosure is important and necessary at this stage, especially when the reporting process is not unduly burdensome.¹

This Office has made its position on this issue clear. Interpretive Bulletin 90-02 stated:

Any expenditures or contributions made subsequent to such act of origination would also be subject to the provisions of M.G.L. c.55. For example, any monies expended by an organization in working with the Attorney General during the certification process undertaken by the Attorney General pursuant to Article 48 of the Amendments to the Constitution would be subject to the provisions of M.G.L. c.55.

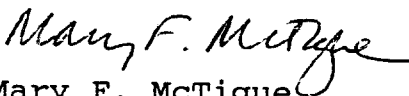
This Interpretive Bulletin, which has been enclosed for your information, squarely addresses your situation. Raytheon has participated in the certification process undertaken by the Attorney General and contributed something "of value" to "influence the vote on any question submitted to the voters." M.G.L. c.55, s.22.

1. The form - "Report of Corporate Treasurer," can be filled out in this case as follows: "submitted to the voters on N/A on the N/A ballot." This clearly indicates that these entries are not applicable because the question was not placed on the ballot.

For the above reasons it is the opinion of this Office that the reporting requirements of M.G.L. c.55, s.22, are applicable to Raytheon's expenditure relative to the certification process of initiative petition 91-23.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55. Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very Truly yours,


Mary F. McTigue
Director